

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KRAFT FOODS GLOBAL, INC., THE)
KELLOGG COMPANY, GENERAL)
MILLS, INC., and NESTLÉ USA, INC.,)
)
Plaintiffs,) No. 1:11-cv-08808
)
v.) Judge Steven C. Seeger
)
UNITED EGG PRODUCERS, INC.,)
UNITED STATES EGG MARKETERS,)
INC., CAL-MAINE FOODS, INC., and)
ROSE ACRE FARMS, INC.)
)
Defendants.)

PLAINTIFFS' STATEMENT OF CASES RELEVANT TO LEGAL STANDARD

Plaintiffs invite the Court to consider the following authorities to guide the Court's consideration of the applicable legal standard:

- *Deslandes v. McDonalds USA LLC*, 81 F.4th 699 (7th Cir. 2023) (per se rule applies to horizontal agreement unless defendants prove restraint is subordinate and collateral to a legitimate business collaboration and is necessary to achieve procompetitive objective);
- *Polk Brothers, Inc. v. Forest City Enters., Inc.*, 776 F.2d 185 (7th Cir. 1985) (explaining and applying ancillary restraint doctrine);
- *Wilk v. American Med. Ass'n*, 719 F.2d 207, 217, 219 (7th Cir. 1983) (the jury is to make the factual determination relevant to the antitrust standard to be applied);
- *Toys "R" Us v. FTC*, 221 F.3d 928, 936 (7th Cir. 2000) (affirms application of per se standard to horizontal agreement);
- *In re Broiler Chicken Antitr. Litig.*, No. 16 C 8637, 2022 WL 4303476 (N.D Ill. June 30, 2022), (price fixing is a per se violation; “[o]utput reduction with the intent to increase price can be a form of price fixing”);
- *Federal Trade Comm'n v. Superior Ct. Trial Lawyers Ass'n*, 493 U.S. 411, 431-432 (1990) (applying per se rule despite societal benefits of defendants' action).

Plaintiffs also refer the Court to Plaintiffs' objections at Dkt. 289, App. 13-5, at 10-18 (ancillary restraints), 36-37 (*Wilk*), which address this topic. Plaintiffs are prepared to submit a brief or argue the legal standard orally.

November 3, 2023

Respectfully submitted.

Counsel for Plaintiffs Kraft Foods Global, Inc., General Mills, Inc., Nestlè USA, Inc. and The Kellogg Company

/s/ Brandon D. Fox

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